IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-1105

RAMSEY CLARK,

Appellant,

v.

J. S. KIMMITT,
Secretary of the United States Senate;

EDMUND L. HENSHAW, JR.,
Clerk of the United States House of Representatives;

and

FEDERAL ELECTION COMMISSION,

Appellees.

On Appeal from the United States Court of Appeals for the District of Columbia Circuit

MOTION OF J. S. KIMMITT, SECRETARY OF THE UNITED STATES SENATE, TO DISMISS, AND BRIEF IN OPPOSITION TO CERTIORARI

CORNELIUS B. KENNEDY
R. KENLY WEBSTER

888 – 17th Street, N.W.
Washington, D.C. 20006
(202) 298-8208

Attorneys for Appellee
J. S. Kimmitt,
Secretary of the United
States Senate

THE CASILLAS PRESS, INC.–1717 K Street, N. W.–Washington, D. C.–223-1220

TABLE OF CONTENTS

TABLE OF AUTHORITIES

IN THE

Supreme Court of the United States

OCTOBER TERM, 1976

No. 76-1105

RAMSEY CLARK,

Appellant,

v.

J. S. KIMMITT,
Secretary of the United States Senate;

EDMUND L. HENSHAW, JR.,
Clerk of the United States House of Representatives;

and

FEDERAL ELECTION COMMISSION,

Appellees.

On Appeal from the United States Court of Appeals for the District of Columbia Circuit

---

MOTION OF J. S. KIMMITT, SECRETARY OF THE UNITED STATES SENATE, TO DISMISS, AND BRIEF IN OPPOSITION TO CERTIORARI

Pursuant to Rule 16 of the Rules of this Court, appellee J. S. Kimmitt, Secretary of the United States Senate, respectfully moves this Court to dismiss the appeal for want of jurisdiction under 2 U.S.C. § 437h(b).

Treating the jurisdictional statement (hereinafter "J.S.") as a petition for *certiorari* as required by 28 U.S.C. § 2103, appellee files his brief in opposition to *certiorari.*

OPINION BELOW

The opinion of the Court of Appeals for the District of Columbia Circuit with concurring and dissenting opinions (Jurisdictional Statement Appendix II, 1-119 (hereinafter "J.S. App.")) has not yet been reported.

JURISDICTION

The judgment of the court of appeals returning all certified questions to the district court unanswered with instructions to dismiss the case was entered on January 21, 1977 (J.S. App. II, 1-18). The notice of appeal was filed in the court of appeals on February 7, 1977 invoking the jurisdiction of this Court under 2 U.S.C. § 437h(b). See discussion of jurisdiction under Motion to Dismiss, *infra,* p. 8. A jurisdictional statement was filed on February 9, 1977, accompanied by a motion to expedite the proceedings before this Court. That motion was denied by this Court on February 22, 1977.

QUESTIONS PRESENTED

Appellant brings to this Court as questions presented only the certified constitutional questions which were returned unanswered by the court of appeals to the district court with instructions to dismiss the case for lack of ripeness and because of judicial prudence. Since certified questions are limited to questions concerning the constitutionality of provisions of the Federal Election Campaign Act, and those questions were not considered by the court of appeals, the questions presented by this appeal are:

1. Whether jurisdiction exists for this appeal under 2 U.S.C. § 437h(b), which provides for appeal to this Court only of questions of constitutionality of the Federal Election Campaign Act certified under Section 437h(a), where the court of appeals returned all certified questions to the district court unanswered, expressly limited its decision to the determination of the justiciability issues of ripeness and judicial prudence, and instructed the district court to dismiss the case.

2. Whether the court of appeals was correct in its determination that appellant had not presented a ripe justiciable "case or controversy" which would permit that court to reach and decide the merits of the constitutional questions respecting a unicameral veto of Federal Election Commission regulations.

3. Whether, under the circumstances of this case, appellant's challenge to the statutory provisions providing for legislative review has been mooted by the expiration of the review period without any action of legislative disapproval.

STATUTE INVOLVED

The Federal Election Campaign Act of 1971, as amended, 2 U.S.C. § 431, *et seq.*,[1] and, in particular, Section 437h, which provides as follows:

---

[1] By letter dated February 10, 1977, to the Clerk of the Court, appellant revised his jurisdictional statement to appeal "solely from the judgment of the court of appeals." Appellant does not seek review, therefore, of the order of the district court under Subtitle H of the Internal Revenue Code of 1954, as amended, 26 U.S.C. § 9001 *et seq.*, and the provisions of the statute are not involved in this appeal.

"§ 437h. Judicial review

(a) The Commission, the national committee of any political party, or any individual eligible to vote in any election for the office of President of the United States may institute such actions in the appropriate district court of the United States, including actions for declaratory judgment, as may be appropriate to construe the constitutionality of any provision of this Act. The district court immediately shall certify all questions of constitutionality of this Act to the United States court of appeals for the circuit involved, which shall hear the matter sitting *en banc.*

(b) Notwithstanding any other provision of law, any decision on a matter certified under subsection (a) shall be reviewable by appeal directly to the Supreme Court of the United States. Such appeal shall be brought no later than 20 days after the decision of the court of appeals.

(c) It shall be the duty of the court of appeals and of the Supreme Court of the United States to advance on the docket and to expedite to the greatest possible extent the disposition of any matter certified under subsection (a)."

STATEMENT

Proceedings Below

Appellant, then a candidate for nomination of the Democratic Party to run for United States Senator from New York, commenced this action to obtain declaratory and

injunctive relief against operation of provisions in the Federal Election Campaign Act of 1971, as amended (hereinafter the "FECA"), governing legislative review of rules, regulations and advisory opinions of the Federal Election Commission (hereinafter "the Commission"). Simultaneously with the filing of the complaint, appellant moved for certification of appellant's certified questions testing the constitutionality of certain provisions of the FECA.

The motion was opposed by the Commission and the Secretary of the Senate, the only two defendants served at that time, on the grounds, *inter alia,* that for lack of standing and ripeness appellant had failed to present a justiciable case or controversy as required by Article III.

In an order filed August 13, 1976, the district court concluded that it would not decide the Article III standing and ripeness issues which already had been put forward by the defendants, and,

> "FURTHER ORDERED, that, although the Court will not rule upon any motion to dismiss with respect to the Article III ripeness and standing issues, defendants may file such a motion with the Court, on or before August 18, 1976, with said motion being served upon all parties on the same date . . . ."

All defendants filed such further motions to dismiss, asserting, among other grounds, that the case did not present a ripe justiciable case or controversy. In their answers, all appellees also asserted the absence of a justiciable case or controversy.

Thereafter, on September 3, 1976, the district court, having declined to rule on the standing, ripeness and other

justiciability issues raised by the appellees, granted appellant's motion to certify certain constitutional questions to the court of appeals.[2] The district court pointed out in an accompanying Explanatory Memorandum to the Court of Appeals *En Banc* which it filed with its order that at the hearing on August 13, 1976, "the court rejected the defendants' major contention in opposition to certification and the convening of a three-judge court, *to wit*, that certification would be improper until the court determined whether plaintiff had presented a case or controversy within the meaning of Article III of the United States Constitution."

On the same day, September 3, 1976, the court of appeals ordered that the matter was "preliminarily deemed to have been properly certified" to that court and that

> "[A] hearing will be held on September 10, 1976 at 2:00 p.m., on the certification. The parties having addressed these questions in their presentations to the District Court, such expedition should not be unduly burdensome, and, it is therefore
>
> FURTHER ORDERED that all briefs upon the matters to be argued on Friday, September 10th shall be filed no later than the close of business, Wednesday, September 8, 1976."[3]

[2] The Department of Justice, as the United States, sought and was granted permission to intervene on behalf of the President and Executive branch as a plaintiff-intervenor (J.S. App. II, 3-6) to argue for a judicial determination that the one-House veto provisions in the FECA are unconstitutional. (J.S. App. I, 26a.) It joined in this motion (J.S. App. I, 52a). However, the "United States" has not noted an appeal or otherwise sought review of the judgment of the court of appeals ordering the district court to dismiss the case.

Pursuant to the order of the court of appeals, all of appellees briefed and argued before the court of appeals on September 10, 1976, the questions which they had addressed in their presentations to the district court on the certification, including the Article III issues of standing and ripeness. However, because the September 3, 1976 order of the court of appeals was limited to questions on the certification which the parties had addressed in their presentations to the district court and, under the certified constitutional question procedure of Section 437h(a) the issue on the merits of the certified questions was not before the district court, the appellees did not address either the district court or the court of appeals on the merits. No further briefs or argument were ordered by the court of appeals, which, on January 21, 1977 issued the order which is now before this Court returning the certified questions to the district court unanswered with instructions to dismiss the case on the ground of lack of ripeness and judicial prudence.

During the time this case was pending before the district court and the court of appeals, the only event which took place under the challenged statutory provision was the commencement of the required 30-day lying-over period for legislative review of the Commission's proposed regulations. The Congress adjourned *sine die* on October 1, 1976 before the termination of this period without taking any action of disapproval of the proposed rules. On October 5, 1976, the Commission issued a statement, distrib-

[3] See J.S. App. I, 10a.

uted as a press release, to advise candidates and the public generally that even though the proposed regulations had not been formally prescribed, they represented the Commission's formally adopted views as to the meaning of the FECA and the Commission would enforce the statute in accordance with that interpretation. On January 12, 1977 the proposed regulations were resubmitted to the 95th Congress, and on March 29, 1977 the period for legislative review expired without Congress having taken any action of disapproval. On April 5, 1977, the Commission announced in a press release that the proposed regulations had been placed on the Commission's agenda for April 7, 1977 for a vote on whether or not to prescribe them.

MOTION TO DISMISS

The Decision of the Court of Appeals Was Limited to Justiciability and Is Not a Decision Appealable Under Section 437h(b).

As provided by Rule 16(1)(a), an appeal which is not taken in conformity to statute is subject to a motion to dismiss on the ground that the appeal is not within the jurisdiction of this Court. Appellant has brought this appeal under 2 U.S.C. § 437h(b). However, there is no basis for an appeal to this Court under 2 U.S.C. § 437h(b). That provision limits appeals to this Court to matters certified under Section 437h(a). Section 437h(a) provides that only "questions of *constitutionality of this Act*" (emphasis added) may be certified to the court of appeals by the district court. (J.S. App. III, 30.) Thus, appeals to this Court under Section 437h(b) are specifically limited to questions of the constitutionality of the FECA.

To meet the test of Sections 437h(a) and (b), the decision of the court of appeals sought to be appealed must be a decision on the *constitutionality* of the FECA. However, the court of appeals did not make such a decision. It concluded only that "the matter before us does not present a ripe 'case or controversy' within the meaning of Article III" (J.S. App. II, 10), and returned all certified questions unanswered to the district court with instructions to dismiss the case for lack of ripeness and because judicial prudence dicated abstention.[4] (J.S. App. II, 16-18.)

A decision limited to justiciability and judicial prudence issues by the court of appeals cannot be converted by the appellant into an appeal to this Court under the statutory provisions of 2 U.S.C. § 437h(b). Plainly, questions of the constitutionality of provisions of the FECA do not include ripeness and similar issues of general justiciability.[5] Appellant's argument that the court of appeals decision on ripeness represents a decision on the first certified question, so as to give this Court jurisdiction on appeal under Section 437h(b) (J.S. 3), is violative of the requirement

---

[4] The court of appeals said that were it to decide the threshold "case or controversy" questions differently, "it would nevertheless refuse to reach the merits of the unicameral veto under the doctrine of judicial prudence." (J.S. App. II, 16 n.10.)

[5] Contrary to appellant's contention, Buckley v. Valeo, 424 U.S. 1 (1976) is not precedent for his position urging review on appeal. The consideration of ripeness by this Court in *Buckley* did not relate to the issue of the jurisdiction of this Court on appeal. At the outset this Court determined that at least some of the appellants had a sufficient "personal stake" in a determination *of the constitutional validity of each of the challenged provisions* to present a justiciable "case or controversy." *Id.* at 6-7 (emphasis added). Ripeness was considered by this Court in the context of whether a particular certified constitutional question was ripe for decision in an otherwise justiciable case or controversy.

that certified questions under Section 437h(a) are limited to questions of the *constitutionality* of the FECA. Thus, the only issues before this Court on appeal from the court of appeals decision are justiciability and judicial prudence issues.[6]

The holdings of this Court with respect to direct appeals to this Court from decisions of three-judge courts support the conclusion that this case is not appealable. In such appeals the order appealed must relate to the merits of the constitutional claim, not to an order dismissing a complaint as nonjusticiable. *Cf. Gonzalez v. Automatic Employees Credit Union*, 419 U.S. 90, 101 (1974) (Review of dismissal for lack of standing "is available only in the court of appeals"); *MTM, Inc. v. Baxley*, 420 U.S. 799, 804 (1975) (A direct appeal under 28 U.S.C. § 1253 to this Court lies "only where such order rests upon resolution of the merits of the constitutional claim presented below"); *Dickson v. Ford*, 419 U.S. 1085 (1974) (An order dismissing a complaint as being nonjusticiable is not appealable under Section 1253). The principles announced by this Court with respect to appeals from three-judge courts should be applicable to the instant case. An appeal from an order dismissing a case solely on ripeness and judicial prudence grounds is not a decision on the constitutionality of the FECA and is therefore not appealable under Section 437h(b).

This appeal, therefore, should be dismissed for lack of jurisdiction.

---

[6]The court of appeals noted the lack of a proper record to resolve the important consitutional question on the merits. (J.S. App. II, 16 n.8 and n.10.)

BRIEF IN OPPOSITION TO CERTIORARI

I

The Court of Appeals Correctly Determined That Appellant Did Not Present a Ripe Justiciable "Case or Controversy" Which Would Permit That Court to Reach and Decide the Merits of the Constitutional Questions Respecting Unicameral Veto of Commission Regulations and There Is No Substantial Question for Review.

Treating appellant's appeal as a petition for *certiorari*, 28 U.S.C. § 2103, appellant presents no substantial question for review by this Court. The only issue decided by the court of appeals is that appellant had not presented a ripe justiciable "case or controversy" which would permit that court to reach and decide the merits of the constitutional questions. (J.S. App. II, 16.)

Appellant, however, does not address either that issue or the alternative ground set out by the court of appeals that, were it to have decided the threshold "case or controversy" questions differently, it would nevertheless refuse to reach the merits of the unicameral veto under the doctrine of judicial prudence." (J.S. App. II, 16 n.10.) Instead, appellant argues standing and the merits of the constitutional claims.[7] Neither of these issues was reached by the court of appeals. It stated as to standing that "[w]hile this case presents many novel and thorny jurisdictional

---

[7] The Department of Justice argued in the court of appeals that appellant lacked standing to raise this constitutional challenge in his asserted status as a voter. (Brief, pp. 16-17.) It took no position concerning appellant's standing as a candidate, but his standing in that capacity vanished, in any event, when he failed of nomination.

questions under Article III, we believe we need not address those pertaining to standing or political question, because the unripeness of the action is so pervasive" (J.S. App. II, 10); and, as to the merits, it stated "[t]he difficult question whether legislative review of regulations constitutes legislation to which the presidential veto necessarily applies also need not be reached in these proceedings because of the unripeness of a challenge based upon the veto power." (J.S. App. II, 12.)

Appellant has shown no reasons why these conclusions of the court of appeals *en banc* are in error. Furthermore, the Department of Justice, which sought and was granted permission to intervene in the interest of the President and the Executive branch to argue for a judicial declaration of unconstitutionality of the one-House veto provision, has not noted any appeal or otherwise sought review of the court of appeals decision. Thus, *only* appellant seeks review of the constitutional issue on the asserted ground that it is "of concern to both the Executive and Legislative branches, as well as to the public at large." (J.S. 28-29.)

While assuming the role of challenger to statutory provisions which he asserts "fundamentally alter the balance of power in our Government" (J.S. 15) and will "soon undo the whole fabric of the Constitution" (J.S. 33), appellant does not refute the conclusions of the court of appeals that "[a]ny ripe nexus arising out of Clark's position as a senatorial candidate vanished when he failed of nomination"; that as a voter he protested no specific veto action taken by Congress; that he identified no proposed regulation tainted by the threat of veto on review; and that he did not suggest that the facial provisions of the Act inhibit his political activities as a voter in any way. (J.S. App. II, 11.) Instead, relying on this Court's opin-

ion in *Buckley v. Valeo, supra,* at 113-118, appellant contends that there is a "subtle injury *to the separation of powers*" (J.S. 20) (emphasis added) but does not point out that this Court said in *Buckley* only that it has not hesitated to enforce the principles of separation of powers embodied in the Constitution "when their application has proved necessary for the decisions of cases and controversies *properly* before it." *Id.* at 116-17 (emphasis added). Thus, separation of powers may provide a reason in a decision, but it is not a substitute for the requirement of a ripe justiciable "case or controversy." Nor can appellant avoid the requirement for a ripe justiciable "case or controversy" by asserting, without identifying *how he* was injured, that he finds in the mere prospect of legislative review during the pre-submission period an "injury sought to be prevented by invalidation of the veto provision [which] is unlikely to ever be more clearly documented." (J.S. 21-22.) Similarly, the principles in *Regional Rail Reorganization Act Cases,* 419 U.S. 102, 143 (1974) do not support appellant because they require that "the inevitability of the operation of a statute *against* certain individuals" be patent, and appellant does not show how the challenged statutory provision will inevitably operate *against* him. At best, he asserts only that they will operate against the Executive branch and the generalized public interest, and this does not give him standing. *See Warth v. Seldin,* 422 U.S. 490, 501 (1975).

These assertions, however, confirm, rather than destroy, the conclusion that the court of appeals was clearly correct when it determined that "[a]s to plaintiff Clark, we are hard put to find any ripe injury or present 'personal stake' in whether or how rules, regulations and advisory opinions of the Commission are reviewed by the legisla-

ture. . . . On this record . . . we must dismiss his present claim as unripe." (J.S. App. II, 11.)

Furthermore, it is a fact that the 30-day statutory lying-over period to permit Congressional review of the Commission's proposed rules had not expired before the Congress adjourned *sine die* without any action of disapproval by either House of Congress.[8] Thus, the court of appeals correctly relied on *Sibbach v. Wilson & Co.*, 312 U.S. 1 (1941), where this Court concluded that a lying-over provision which delays the effectiveness of an otherwise valid rule or regulation in order to permit Congress to take negative action is not of itself unconstitutional. *Id.* at 15-16.

Other factors which argue strongly against review of this case on *certiorari* are the inadequacy of the record upon which to review the major constitutional question presented on the merits, and the unresolved questions relating to appellant's standing and to the presence of a political question. The record presents the question on the merits primarily on an abstract level dealing with governmental structure. It lacks the concrete detail showing the requisite personal hardship and the impact and effect of the challenged statutory provision necessary for a full-bodied record. The absence of such essentials should preclude judicial review on *certiorari* in this case.

Finally, the fact that all of the certified *constitutional* questions were returned unanswered by the court of appeals makes review of them on *certiorari* inappropriate because they have not been passed upon by the lower courts. The result of granting a petition for *certiorari* by this appeal would be to require such questions to be determined

[8] In the case of proposed rules submitted to both Houses of Congress, a legislative day does not include any calendar day on which both Houses of Congress are not in session. 2 U.S.C. § 438 (c)(4).

by this Court in the first instance. Given the difficulty of approaching a decision on the constitutional issues because of the absence of a ripe justiciable "case or controversy" necessary to assure an adequate presentation of the issues, the court of appeals, which had the matter under consideration for over four months after the oral argument, correctly decided not to reach the merits of the constitutional questions. These reasons alone justify this Court in declining to review this case under the circumstances in which it is presented.

To take review, on the other hand, would be to "entertain constitutional questions in advance of the strictest necessity" which this Court has pointed out it will not do. *Parker v. County of Los Angeles*, 338 U.S. 327, 333 (1949) (an unripe issue was involved). More recently, in *United States v. Raines*, 362 U.S. 17, 21 (1960), this Court said that the jurisdiction of United States courts is limited by the "case or controversy" requirement to adjudging the legal rights of litigants in actual controversies and that requirement creates the rule for it, "never to anticipate a question of constitutional law in advance of the necessity of deciding it." Indeed, this has been the principle of this Court over many years. *Liverpool Steamship Co. v. Commissioners of Emigration*, 113 U.S. 33, 39 (1885); *Ashwander v. TVA*, 297 U.S. 288, 346-47 (1936); *Bowen v. United States*, 422 U.S. 916, 920 (1975).

Thus, the court of appeals properly held that appellant did not present a ripe justiciable "case or controversy" that would permit the court to reach and decide the merits of the constitutional questions respecting a one-House veto provision which had not been exercised, and this case presents no substantial question for review by this Court on the merits of that provision.

II

Under the Circumstances of This Case, Appellant's Challenge to the Statutory Provisions Providing for Legislative Review of Proposed Rules of the Federal Election Commission Presents No Substantial Question for Review by This Court Because the Statutory Review Period Expired Without any Action of Legislative Disapproval, Permitting the Commission to Promulgate the Proposed Rules.

During the period this case was pending before the court of appeals, the *possibility* existed of a legislative veto of proposed rules submitted by the reconstituted Commission,[9] but no legislative veto occurred. Once the period for legislative review expired, however, there could no longer be a legislative veto of the proposed rules under the challenged statutory procedure. This caused the court of appeals to point out that:

> "If the Commission were to resubmit these same regulations to the 95th Congress, and if the lying-over period expired without any legislative activity, the Commission would then be free to promulgate the proffered regulations, and no presidential prerogative whatever would have been violated. For this reason we hold that this matter is not justiciable on the ground of unripeness with respect to the claim of the United States. Until Congress

[9] The Commission was reconstituted as an Executive branch agency following this Court's decision in Buckley v. Valeo, *supra*, 134-35, that none of the Commission's broad administrative powers, including rule-making and advisory opinions, "can be performed by the present Commission." For that reason, the Commission re-examined its proposed rules previously submitted to Congress and submitted revised proposed rules on August 3, 1976. (J.S. App. I, 65a-72a.)

> exercises the one-House veto, it may be difficult to present a case with sufficient concreteness as to standing and ripeness to justify judicial resolution of the pervasive constitutional issue which the one-House veto provision involves." (J.S. App. II, 15-16 (footnote omitted).)

The situation hypothesized by the court of appeals has now become a reality. The Commission resubmitted its regulations to the 95th Congress on January 12, 1977. On March 29, 1977, the 30-legislative-day lying-over period expired without any action of legislative disapproval. The Commission has announced that it has its proposed regulations on its agenda for April 7, 1977 for a vote on prescribing them.[10] The fate of the Commission's

[10] See Federal Election Commission Press Release, dated April 5, 1977, which reads as follows:

> The Federal Election Commission will act on Thursday (April 7) to officially prescribe comprehensive regulations implementing the Federal Election Campaign Act of 1971, as amended.
>
> The FEC scheduled a vote on official adoption of its formal regulations at its regular Thursday meeting following the completion last week of the 30 legislative day period required by the statute for Congressional review.
>
> The meeting will begin at 10:00 a.m. in the FEC fifth floor conference room.
>
> The regulations were submitted to Congress on Wednesday, January 12. The 30th legislative day, interpreted as a day when both the House and Senate are in session, occurred on Tuesday, March 29. No provision was disapproved by Congress.
>
> The regulations were also submitted to Congress last year, but Congress adjourned after only 28 legis-

(Continued)

proposed regulations is, therefore, fully within the control of the Commission. The only inhibition on the promulgation by the Commission of its proposed rules, the lying-over period for legislative review, which this Court has held in itself not to be unconstitutional,[11] has now expired. With it expired the necessity for deciding whether these rules can be vetoed by one House of Congress.

Appellant, in effect, concedes this point by acknowledging that when this Court held in *Buckley* that the Commission was improperly constituted and therefore could not validly issue any rules, "the necessity for deciding whether such rules could be vetoed by one House of Congress was obviated." (J.S. 6.) Here, the necessity for deciding whether such rules could be vetoed by one House of Congress is also obviated because there is now no inhibition on the Commission prescribing its proposed rules.[12]

Since no act of legislative review under the challenged statutory provision can at this point affect the Commission's power to prescribe the proposed regulations, there is clearly no substantial question ripe for review by this Court.

---

[10] (Continued)

lative days had expired. Therefore, the Commission did not vote to formally prescribe the regulations last year. The text of the regulations is found in the August 25, 1976, Federal Register, pages 35932-35976.

[11] Sibbach v. Wilson & Co., *supra.*

[12] The proposed rules were approved by the Commission on April 7, 1977.

CONCLUSION

For the reasons set forth above, this Court should dismiss the appeal for lack of jurisdiction. If the appeal is treated as a petition for *certiorari*, it should be denied because it presents no substantial question ripe for review.

Respectfully submitted,

CORNELIUS B. KENNEDY
R. KENLY WEBSTER
888 17th Street, N.W.
Washington, D.C. 20006
(202) 298-8208
Counsel for Appellee,
J.S. Kimmitt, Secretary
of the United States Senate

Dated: April 8, 1977